



Town of Tyngsborough

Board of Appeals

Town Hall-25 Bryants Lane
Tyngsborough, Ma 01879-1003
(978) 649-2300, Ext. 112

Board of Appeals Minutes from August 10, 2006

Members Present- Robb Kydd, Eileen Farrell, Claire Cloutier, Chris Mechalides, Cheryl Bradley.
Members Absent- Gary Ralls.

6:30 PM-

Hearings Continued from June 8, 2006.

Ominipoint Communications, Inc., T-Mobile USA Inc., 50 Coburn Rd., Map 26, parcel 33.
Request variance and special permit to install, operate, and maintain a wireless communications facility, including without limitation, a 150' monopole, antennas, ground equipment, and fenced compound. R-1 Zone, sections 4.16, 2.12, 2.15.22.

Continued Hearing to discuss the signing of the decision.

T-Mobile appeared with a determination created by T-Mobile and reviewed prior to this meeting by Town Counsel. Everything appeared to be in order. There were a few questions from the board regarding access lighting to the site and landscaping around the site. The determination was then accepted by the Board with a vote of 4-1 with Eileen Farrell opposing. T-Mobile would return to the board with a final plan for landscaping in the future.

Town Counsel Charles Zaroulis was present for this hearing.

Dana Stirling, LLC, 6 Cummings Rd. Map 13, parcel 13. request for extension, change or alteration of a pre-existing, nonconforming use or structure pursuant to provisions of MGL, Ch 40A, section 6 and section 2.15.22 in order to maintain certain free standing shelving on the outside wall of the building closest to Cummings Rd., I-1 Zone.

Town Counsel Charles Zaroulis was present for this hearing.

Dana Wall Board, LLC presented a determination with the motion prepared. After review by the board and an agreement between the Board and Dana Wallboard it was agreed that the Item # condition #7 would read "completed within 12 months" the board voted unanimously in favor. Atty. Poitras will submit to the ZBA a final copy of the motion with "attachment A" the plot plan. The plot plan will become part of the final decision and recorded at the Registry of Deeds.

No abutters were present at this hearing.

Motion to approve application by Chris Mechalides. Seconded by Farrell. Vote 5-0. Accept document provided by Atty. Poitras with change from 18 months to 12 months on condition #2.

Regular Scheduled Hearings

Kevin Pollicelli, 9 King David Rd., Assessors Map 32, parcel 52 request variance on the front, right, and left side set back for the construction of a front porch. R-2 Zone, sections 2.12.50 & 2.12.46.

Legal notice read. Advertised in the Lowell Sun on July 27 & August 3, 2006. No challenges to the legal notice or abutter notification. Motion to waive the reading of the abutters list by Farrell. Seconded by Cloutier. Vote 5-0.

Application presented by Kevin Pollicelli.

No abutters were present to speak for or against the application.

Motion to close the public portion of the hearing by Mechalides. Seconded by Farrell.

Motion to approve application by Mechalides. Seconded by Farrell. Vote 5-0.
The Board will grant a variance of 5 feet on the front yard set back for the construction of a front porch.

Guilio & Lisa Mambro, Upton Drive, Assessors Map20A, parcel 31, request variance and party aggrieved on decision by Town Counsel on the frontage requirement for the construction of a single family dwelling. R-1 Zone, sections 2.12.50 & MGL Chapter 40A, section 6.

Legal notice read. Advertised in the Lowell Sun on July 27 & August 3, 2006. No challenges to the legal notice or abutter notification. Motion to waive the reading of the abutters list by Farrell. Seconded by Cloutier. Vote 5-0.

Application presented by Peter Nicosia, Esq.

One abutter spoke for the applicant- Mark Welch-44 Flint Rd.
One abutter spoke against the applicant- Charles Dougherty-10 Upton Drive.

Motion to close the public portion of the hearing by Cloutier. Seconded by Farrell. Vote 5-0

Motion to deny application as submitted by Farrell. Seconded by Cloutier. Vote 5-0.
The board based the denial on the facts from Atty. Charles Zaroulis letter. Also, The board does not see any hardship. The applicants created the hardship when they purchased the lot.

Other Business:

P.C. Homes Trust- AKA Peter Cricones accept motions to withdraw his application without prejudice on 21 Davis St.- See letter dated June 26, 2006.
Motion by Mechalides to withdraw application without prejudice. Seconded by Farrell. Vote 5-0.

Walter Ericksen – Maple Ridge Discussion-

Walter has to work with Atty. Lisa Mead on the question of the fees and the board is asking Lisa Mead to be present at the next hearing. Lisa Mead letter indicated that she was opposed to a change in the fee structure, the Walter's lawyer responded on the 14th but we did not have a letter in response to that from Lisa so, it was decided that the Board would like Lisa at the next meeting.

Walter Ericksen also wanted to change the road going into the apartments and the board reviewed a plan he has prepared and agreed that it would make sense to make the change. He needs to increase the width of that road from 18 to 22 feet and needs conservation input as well. Motion to approve the road change to 22 feet as insubstantial change by Farrell. Seconded by Mechalides. Vote 4-0. Cloutier abstained.

Other Business:

Minutes from June 8, 2006- Motion to accept minutes by Eileen Farrell. Seconded by Cloutier. Vote 4-0. Discussion of letter from Joan Trudell of Mascuppic Trail. After brief discussion the board felt that there was nothing to address in the letter. This resident would have to appear before the board regarding any variance questions since the one she referenced as obtaining (many years ago) in her letter would have expired based on the Town of Tyngsborough by-laws. No action to be taken on this matter.

Motion to adjourn.

Minutes taken by Cheryl Bradley.